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Respondent In Pro Per

UNITED STATES COPYRIGHT CLAIMS BOARD

DAVID G. OPPENHEIMER,

Claimant,

CLAIM NUMBER: 22-CCB-0045

**DECLARATION OF RESPONDENT
DOUGLAS A. PRUTTON**

vs.

DOUGLAS A. PRUTTON.

Respondent.

I, Douglas A. Prutton, declare as follows:

(1) My name is Douglas A. Prutton. I am the respondent in this matter. I am a licensed attorney in the State of California. I am a solo practitioner. I am a competent adult.

(2) My business, Law Office of Douglas A. Prutton, has a website, pruttonlaw.com. I created this website and it is maintained through GoDaddy.

- 1 (3) My adult daughter, Mariana Prutton, who was around 29 years at the time, asked me if
2 she could try to improve my website. I told her of course. Among other things, she
3 downloaded a photo of the Oakland, CA (Ronald Dellums) federal courthouse from the
4 internet. This photo was put on a page of my website entitled "Where We Work." This
5 page included photos of other courthouses where I worked. In order to get to that page a
6 user would have to click on a link on the first page of my website.
7
- 8 (4) In 2019 I received a letter from a lawyer in Arkansas advising me that the photo of the
9 Oakland courthouse on my website was his client's photo (his client was David
10 Oppenheimer). I responded with a letter telling this lawyer that I was sorry for the error
11 and that the photo had been removed from my website. He responded with a letter to me
12 demanding \$30,000.00. I responded with an offer of \$200.00. He responded by refusing
13 to go below \$30,000.00. I then offered \$500.00. Mr. Oppenheimer then, through a
14 lawyer in California, sued me in federal court.
15
- 16 (5) I represented myself during the lawsuit. Eventually a trial was scheduled for May 16,
17 2022. I served a subpoena on Mr. Oppenheimer's attorney on March 29, 2022 demanding
18 that Mr. Oppenheimer produce at trial documents regarding his income sources (from
19 selling and licensing photographs and from copyright trolling). The next day, March 30,
20 2022, Mr. Oppenheimer's attorney emailed me suggesting that we agree to present the
21 claim to the copyright claims board in lieu of trial, and that the DMCA claim and
22 attorney's fee claims would be dropped, leaving only the copyright infringement claim. I
23 stipulated to this procedure.
24
- 25 (6) In another copyright infringement case in South Carolina, Oppenheimer v. Scarafile, Mr.
26 Oppenheimer provided deposition testimony. 2:19-cv-3590. The transcript of that
27 deposition is a public record that can be found on-line in the court file as an attachment to
28
29

1 a motion for summary judgment. In that deposition, Mr. Oppenheimer testified that his
2 photos can be found on many different websites including Flickr, Photoshelter, Facebook,
3 Fine Arts America, Panoramic, Google maps, Picasa, Mobypicture, Linked In and
4 Twitter, as well as on his own company's website Performance Impressions. (Pp. 72 -75).

5
6 (7) Mr. Oppenheimer also testified during that deposition that he uses various third party
7 entities, including a website called Pixsy.com. to troll the internet for his photographs
8 searching for infringers. The Pixsy website boasts of its ability to search the internet and:
9 “Our team of copyright experts and international legal partners handle the whole
10 infringement case process to recover fees and damages on your behalf. No win, no fee!”
11 (Emphasis in original).

12
13 (8) In the Oppenheimer v. Scarafile case, the Judge issued a ruling wherein he stated that the
14 evidence showed that Mr. Oppenheimer “earned more than \$400,000 from litigation
15 settlements and less than \$5,000 from license and print sales in 2017.”

16
17 (9) A search of PACER shows that Mr. Oppenheimer has filed 176 federal copyright
18 infringement lawsuits across the country, most of them filed since 2016, including 31 in
19 2022. Mr. Oppenheimer testified in his deposition that not a single one of his lawsuits
20 have gone to trial. With the exception of only one case (which Mr. Oppenheimer
21 dismissed because the Judge made some type of ruling) all of the lawsuits have resulted
22 in a settlement or a default.

23
24 (10) Attached as Exhibit A is a true and correct copy of the photograph that Mr.
25 Oppenheimer's attorney presented to me and which he attached to his legal Complaint as
26 his copyrighted photo of the Oakland federal courthouse.

- 1 (11) I have used a company called GoDaddy to create and maintain my website.
2 Attached as Exhibit B is a true and correct screen shot of the page that comprised my
3 "My Photos" on my GoDaddy account as of March 25, 2021. Included on the first of
4 those pages in the upper right corner is a photo of the Oakland federal courthouse that I
5 believe my daughter downloaded from the internet. It is my understanding that to then
6 put a photo on a particular page of the website you go to 'My Photos' and select one. My
7 daughter must have selected this photo in "My Photos" and put it on the 'Where We
8 Work' page of my website.
9
- 10 (12) Attached as Exhibit C is a true and correct copy of a photograph that I printed. I
11 selected the upper right corner photograph on Exhibit B (the photo of the Oakland federal
12 courthouse) and then printed it. I could not print a larger version though I tried. After
13 printing Exhibits B and C I deleted them from my GoDaddy account as Mr.
14 Oppenheimer's attorney told me they were still on my server. Neither Exhibit B nor
15 Exhibit C show any copyright information on the images.
16
- 17 (13) Exhibit D is a true and correct copy of a screen shot I took after doing a google
18 search of "aerial photograph of oakland federal courthouse." The screen shot shows what
19 appears to be Mr. Oppenheimer's photo but without any copyright information on the
20 image.
21
- 22 (14) In discovery in the federal lawsuit brought against me by Mr. Oppenheimer he
23 admitted that he had not sold or licensed a single copy of the photo involved in this case.
24
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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing statements are true and correct. Executed at Concord, California.
3

4
5 Dated: 1/10/2023
6

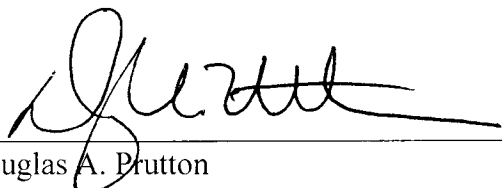
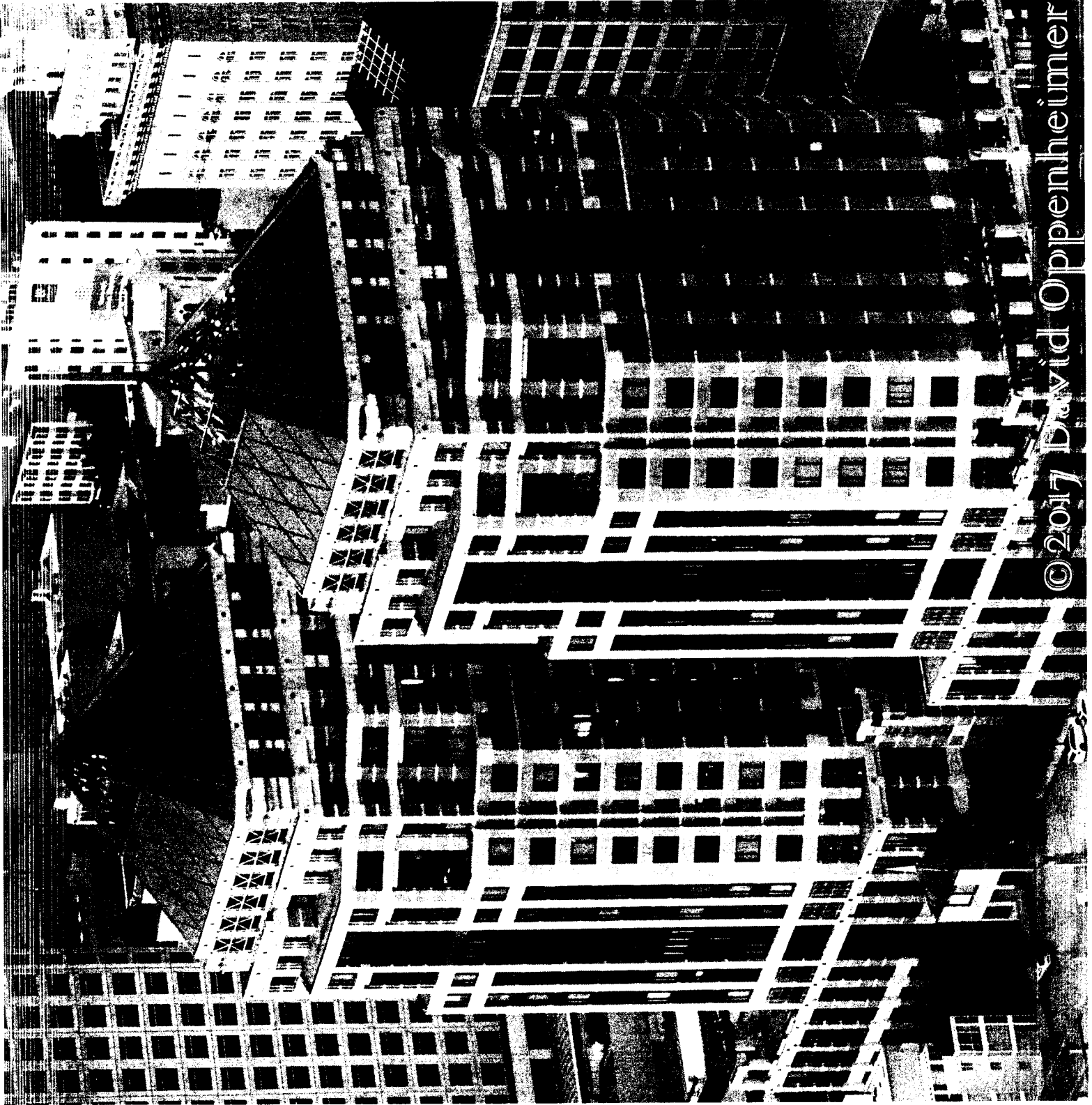
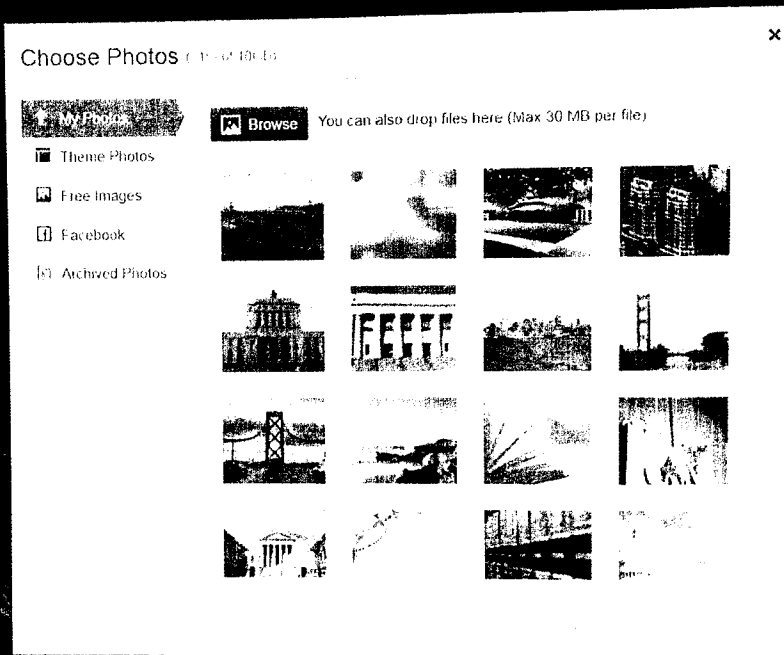
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Douglas A. Prutton
Respondent In Pro Per

EXHIBIT A



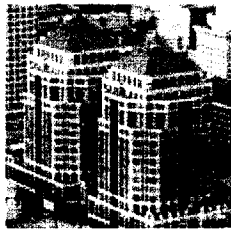
©2017 David Oppenheimer

EXHIBIT B



3/25/21

EXHIBIT C



Printed from my "Choose Photos", "My Photos" on
Go Daddy 3/25/21

EXHIBIT D

Google aerial photo of oakland federal courthouse

Google

Search results for "aerial photo of oakland federal courthouse" showing various aerial views of the building and surrounding area.

Results include:

- Aerial view of the building and surrounding area.
- Aerial view of the building and surrounding area.
- Aerial view of the building and surrounding area.
- Aerial view of the building and surrounding area.
- Aerial view of the building and surrounding area.
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- Aerial view of the building and surrounding area.
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- Aerial view of the building and surrounding area.

Related Images

Related images showing various views of the building and surrounding area.

Product listing for Fine Art America:

Ronald V. Dellums Federal Building and U.S. Courthouse B...

4.4 ★★★★★ (377) \$35.00+ Brand: Fine Art America

Brush it up, dress it down, or use it to stay organized while you're on the go. Our carry-all pouches can do it all. They're crafted with 100%...

*Check website for latest pricing and availability. Images may be subject to copyright. [Learn More](#)

Related Images

Related images showing various views of the building and surrounding area.

3/25/21

Proof of Delivery

I hereby certify that on Tuesday, January 10, 2023, I provided a true and correct copy of the Declaration of Respondent Douglas A. Prutton to the following:

David G Oppenheimer, represented by Lawrence G Townsend, served via ESERVICE at ltownsend@owe.com

Signed: /s/ Douglas A Prutton